United Nations A/HRC/31/54/Add.2

General Assembly

Distr.: General
26 February 2016

Original: English

Human Rights Council
Thirty-first session
Agenda item 3
Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context on her mission to Serbia and Kosovo* **

Note by the Secretariat

The Secretariat has the honour to transmit to the Human Rights Council the report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living and on the right to non-discrimination in this context, Leilani Farha, pursuant to Council resolution 25/17.

* Any reference to Kosovo, whether to the territory, institutions or population, is to be understood in full compliance with Security Council resolution 1244 (1999) and without prejudice to the status of Kosovo.

** The present report was submitted after the deadline in order to reflect the most recent developments.

Please recycle

Report of the Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context on her mission to Serbia and Kosovo***

Contents

		Page
I.	Introduction	3
II.	Serbia	3
	A. Overview	3
	B. The right to adequate housing: institutional and legal framework	4
	C. Housing situation	7
	D. Persons in a vulnerable situation	9
	E. Access to justice	13
III.	Kosovo	14
	A. Overview	14
	B. The right to adequate housing: institutional and legal framework	14
	C. Persons in a vulnerable situation	17
	D. Access to justice	18
IV.	Conclusions and recommendations	19
	A. Recommendations addressed to the Government of Serbia	20
	B. Recommendations addressed to the authorities in Kosovo	22

*** Circulated in the language of submission only.

I. Introduction

1. The Special Rapporteur on adequate housing as a component of the right to an adequate standard of living, and on the right to non-discrimination in this context, Leilani Farha, undertook an official visit to Serbia from 18 to 25 May and to Kosovo on 26 and 27 May 2015. The aim of her mission was to examine the realization of the right to adequate housing and to non-discrimination in the light of international human rights standards and norms, in accordance with her mandate, pursuant to Human Rights Council resolutions 15/08 and 25/17.

2. The Special Rapporteur expresses her gratitude to the Government of Serbia, the authorities in Kosovo, the United Nations country team in Serbia, the United Nations Interim Administration Mission in Kosovo (UNMIK), the United Nations Kosovo team and the staff members of the Office of the United Nations High Commissioner for Human Rights (OHCHR) in Belgrade and in the stand-alone office in Kosovo for their support before, during and after the visit.

3. The Special Rapporteur visited Belgrade, Pančevo, Obrenovac, Novi Pazar, Kraljevo, Priština and Mitrovica. She met with high-level authorities, including ministers, parliamentarians, city mayors and local council members, and with the Ombudspersons of Belgrade and Priština. She held consultations with representatives of civil society organizations, United Nations agencies and regional institutions, academia, international organizations and lawyers.

4. At the outset, the Special Rapporteur noted that discussions on the right to housing with her interlocutors revealed deep wounds, caused by the recent conflict, the dismantling of communism and the advent of free markets all, within the space of 25 years. Residents disclosed housing-related issues that went beyond physical place or access to services. For many, addressing their current housing situation was intertwined with displacement, dispossession and the difficulties encountered in securing a residence or returning to the home of their ancestors. Residents shared their struggle to live in dignity amidst feelings of insecurity and stigma, and their invisibility without access to adequate housing. She expresses her gratitude and immense respect to everyone for generously sharing their stories and views despite the sensitivity of the issues.

5. Owing to space limitations, the Special Rapporteur focuses her attention in the present report to key issues relating to the right to housing that require further analysis, immediate attention and follow-up. Where possible, she has focused on vulnerable groups who have not received adequate attention.

II. Serbia

A. Overview

6. In recent decades, Serbia has experienced several historic events that have had far-reaching consequences for the housing situation of its population: the break-up of Yugoslavia and the destruction of homes, infrastructure and widespread displacement in the ensuing conflict; the rapid transition from socialism to a market-based economy; and an influx of refugees and internally displaced persons from the former Yugoslavia in the early 1990s, from Kosovo in 1998 and 1999, and in the past year migrants and refugees from

various Asian and African countries, who arrive to Serbian borders primarily in transit on their way to northern Europe.

7. Serbia became an independent State in 2006, following the break-up of its union with Montenegro. In March 2012, the candidacy of Serbia for accession to the European Union, which constitutes a political and economic priority for the Government, was accepted. The State economy has continued to suffer since the global crisis of 2008. Serbia struggles with economic growth and deindustrialization, and has taken a number of measures to reduce its public debt, such as cutting pensions and raising taxes for public workers earning more than 60,000 dinars (approximately €525) per month.[1]

8. High unemployment is a critical issue for people in Serbia. A labour force survey conducted in 2013 highlighted a gender gap: the unemployment rate for men was 20.8 per cent, while it was 23.8 per cent for women. Young persons aged between 15 and 24 are twice as likely as adults to be unemployed. Although these figures account for only the percentage of available jobs in the informal sector, low wages and lack of secure employment prospects seem to have a disproportionate impact on young people, women, Roma, low-skilled individuals, persons with disabilities, internally displaced persons, refugees and older persons.

9. Over the past few decades, Serbia has witnessed a decline in its population due to the low birth rates and to the emigration of young people. The average age in Serbia is 40, although some 24 per cent of the population is already 60 years of age or older. Such changes could have a serious impact on the economy, access to social welfare and poverty rates.

B. The right to adequate housing: institutional and legal framework

1. International obligations

10. Serbia is party to most core international human rights treaties. Article 11 of International Covenant on Economic, Social and Cultural Rights provides for the right to an adequate standard of living, including housing, while article 2.2 enshrines the right to non-discrimination. Article 2.1 guarantees the progressive realization of all rights in the Covenant, making use of the maximum of available resources. Other binding instruments include the International Convention on the Elimination of Racial Discrimination, the Convention on the Rights of the Child, the Convention of the Elimination of Discrimination against Women and the Convention of the Rights of Persons with Disabilities.

11. Regionally, Serbia ratified the European Convention for the Protection of Human Rights and Fundamental Freedoms in 2004 and the revised European Social Charter in 2009.

12. Consequently, Serbia has binding legal obligations to ensure the enjoyment of the right to adequate housing, without discrimination on any ground. The Committee on Economic, Social and Cultural Rights has provided authoritative interpretations on the scope and content of the right to adequate housing (general comment No. 4), the prohibition of forced evictions (general comment No. 7) and the principle of non-discrimination (general comment No. 20).

[1] Government of the Republic of Serbia, Fiscal Strategy for 2014 with projections for 2015 and 2016, pp. 41-46.

13. In its concluding observations on the second periodic report of Serbia, the Committee raised three main concerns with regard to housing:

(a) The recurrence of forced eviction and resettlement of internally displaced persons and other disadvantaged groups from settlements in Belgrade and other municipalities, without adequate consultation, alternative housing, compensation or access to remedies;

(b) The situation of thousands of Roma living in informal settlements without access to basic services;

(c) The small number of social housing units constructed annually for low-income families (E/C.12/SRB/CO/2, paras. 30-31).

14. Similar concerns were raised by the Committee on the Elimination of Racial Discrimination about the Roma who often live in segregated settlements and experience discrimination in their access to adequate housing or who were subject to forced evictions, with no provision of alternative housing, legal remedies or compensation for damage and destruction of personal property (CERD/C/SRB/CO/1, para. 14).

15. The Committee on the Elimination of all Forms of Discrimination against Women expressed its concern about inequalities between urban and rural women, particularly with regard to access to property, owing to traditional social patterns favouring men as holders of titles. The Committee also noted that lack of State funding for the implementation of strategies and plans had a disproportionate effect on women with disabilities, older women and women belonging to ethnic minorities (CEDAW/C/SRB/CO/2-3, paras. 16 (a) and 35).

2. Domestic legal framework and strategies

16. The Constitution of Serbia came into force in November 2006. While not explicitly guaranteeing the right to adequate housing, article 18 guarantees the implementation of human and minority rights provisions set forth in ratified international treaties. Other relevant provisions include article 21, on equality and non-discrimination; article 22, on the right to an effective remedy; article 32, on the right to a fair trial; article 36, on equal protection of rights before courts; and article 69, on the right to social protection.

17. Local government is provided for under article 176 of the Constitution, and its functions regulated by the Local Self-Government Act of 2007. Serbia has 174 units of local government covering 150 municipalities, 23 towns and the City of Belgrade (special territorial unit under the Constitution and the Capital City Act). All local governments have functions relating to the right to housing, in particular zoning, spatial planning, permits, and building and allocation of social housing, and should, pursuant to article 20 (1) (32) of the Act, ensure the protection and promotion of human rights (individual and collective) of national minorities and ethnic groups.

18. In recent years, several housing-related laws and strategies have been approved: Law on Social Housing (2009), Law on Social Welfare (2011), the National Strategy for Social Housing (2012), the creation of the Republic Housing Agency (2011) and the statute thereof, and the Strategy for the Improvement of Roma Status in the Republic of Serbia (2009).

19. The Republic Housing Agency is responsible for overseeing conditions and funds for social housing. The agency is funded by, inter alia, the national budget, contributions from domestic or foreign entities and individuals, and accruals from transactions within its competence. At the municipal level, housing agencies (non-profit organizations) have been

established in 10 cities, including Belgrade, to implement local policies and manage social housing.

20. The Law on Social Welfare provides protection to the poorest by ensuring appropriate benefit levels based on household type, size and employment. The Special Rapporteur learned, however, that monthly benefits are inadequate and should be increased by at least 33 per cent in order to reach the threshold below which recipients are at risk of poverty.

21. At the time of her visit, the Law on Social Housing was the legislative instrument designed to ensure housing for those with a low income. Article 2 of the law defines adequate social housing as that provided with the support of the State to households unable to secure their own dwelling owing to social, economic or other reason. Article 10 defines entitlement criteria for beneficiaries as including housing status, income, health status, disability, household size and assets; priority is given to young persons, unaccompanied children, single-parent households, older persons, persons with disabilities, refugees, displaced persons, and minority groups, particularly Roma.

22. The National Social Housing Strategy is aimed at increasing affordability of housing for low- and medium-income households. Under the strategy, households whose rent costs exceed a third of all income are entitled to a housing allowance. The allowance (adjustable to changes in income or family size) is to be used as a contribution to rent.

23. During the preparation of the present report, the Special Rapporteur was informed of discussions on a new draft law on housing, which was adopted by the Government in January 2015. The law is scheduled for legislative adoption in the near future. The Special Rapporteur points out that, prior to adoption, the law should be reviewed to assess its compliance with the State's international human rights obligations with regard to the right to housing. It should consequently be based on international human rights standards to ensure the enjoyment of the right to adequate housing, particularly by the most vulnerable groups.

24. The Special Rapporteur is concerned that aspects of the new housing law, as reported, appear to be contrary to international human rights standards, particularly with regard to forced evictions. At the outset, the law fails to make clear that forced evictions are contrary to international human rights law and may only be carried out in the most exceptional of circumstances. The proposed law also fails to guarantee genuine consultation with the community prior to an eviction; does not guarantee that eviction will only be used as a last resort once all other feasible alternatives to eviction have been explored; lacks adequate provisions with regard to the period of notice prior to an eviction; and has no provisions for those wishing to appeal the eviction, suggesting a denial of access to justice or legal remedies for violations of their rights.

25. In a similar vein, during discussions with authorities of the City of Belgrade, the Special Rapporteur was informed of plans to amend the 2009 plan of action for the relocation of unhygienic settlements. The draft plan, currently entitled "plan of action for the improvement of the overall situation of the inhabitants of informal settlements", has been under discussion since April 2015, under the leadership of the Secretariat for Social Welfare. Adoption of the plan is reportedly imminent as well. The Special Rapporteur learned that the current draft includes measures for the improvement of living and housing conditions in informal settlements, and also appears to clarify the international obligations and procedures to be followed prior, during and after relocations, including the provision of alternative housing. In addition, some provisions take into account the responsibility of the city government to improve housing conditions prior to ordering relocation, as provided for in international human rights law.

26. While pleased with such provisions, the Special Rapporteur is concerned that the plan is reportedly designed for residents of informal settlements who are citizens of Serbia, thereby excluding other communities, such as internally displaced persons and Roma, who may have settled in Belgrade for decades but have been unable to register as citizens. She also points out that the plan of action should be an opportunity to establish measures and mechanisms to improve living conditions in informal settlements, to keep people in situ and to guarantee them security of tenure.[2]

C. Housing situation

1. Overview

27. In 2014, the Statistical Office of Serbia estimated the population at 7.13 million. According to the 2011 census, some 2.4 million housing units were inhabited. Official estimates of the number of new units required at present or in the future and the number of existing units needing qualitative upgrading were not available.

28. Serbia transferred most of its public housing stock in the early 1990s. Many of the units were bought by long-time "tenants" at a symbolic rate of a few hundred deutsche marks, regardless of their size, location, land value, infrastructure or services available. Multistorey buildings housing employees became private property overnight. Many of these buildings have not been serviced or upgraded to preserve or enhance their quality, accessibility and habitability; features such as insulation, sanitation, sewage, heating and electric systems are therefore inadequate. As an example, when they were privatized, communal kitchens and bathrooms became decrepit and left unused. In some cases, tenants have built their own private bathrooms in cupboards. These conditions are not in keeping with human rights standards.

29. The slow pace of development of new social housing has resulted in the exclusion of certain vulnerable groups, such as young people and low-income households. The State's social housing framework is re-emerging; future steps will determine whether it will genuinely address housing needs and contribute to social inclusion. The situation is compounded by the lack of security of tenure of many renters in the private market. Frequently, landlords prefer not to sign a lease with tenants in order to, avoid having to pay taxes on rental income. Oral agreements can be terminated without due process, at any time. With weak protections for renters and no access to social housing, many risk homelessness.

30. The approach of many housing programmes and projects is piecemeal, with a short-term focus. Housing has been partially driven by donor or project allocations for specific population groups, often executed by numerous actors without adequate coordination. More worrisome is the fact that several projects have been designed without a national and comprehensive housing needs assessment in place. This is an essential first step to determine the type of public policies, programmes and projects needed. Without an overarching vision of needs, it is difficult for the Government or local governments to develop programmes and policies that will guarantee the protection and enjoyment of the right to housing, particularly for the most vulnerable.

31. The current situation is also characterized by the coexistence of several groups vulnerable to discrimination and inequality with regard to housing. The Special Rapporteur

[2] See A/HRC/28/62. See also A/HRC/22/46 and A/HRC/25/54.

applauds the Government for having developed specific housing programmes for some groups, in particular for refugees, mostly from other parts of the former Yugoslavia; internally displaced persons, mainly from Kosovo; and Roma, Ashkhali and Egyptians, in particular those living in or relocated from informal settlements. Nonetheless, the situation of other groups, such as young persons, homeless persons, persons with disabilities, women fleeing violent households and older persons, seems outside the purview of both the Government and the international community;

32. Lack of affordability of utilities and other housing-related costs also presents many challenges. Electricity consumption remains high mainly because of the widespread use of electric heating and poor insulation. Furthermore, the Special Rapporteur learned that social benefit entitlements are, for the most part, inadequate and provided to the majority for just nine months of the year, and sometimes reduced by a new property tax, levied since 2015 against homeowners and social housing tenants and equivalent to a month of social benefits. Of particular concern is the high cost of utilities for social housing tenants, despite being on a fixed, low income. Many live in fear of eviction owing to arrears.

2. Social housing policy and programmes

33. Article 2 of the existing Law on Social Housing (2009) provides a State-supported mechanism for households unable to secure their own dwelling due to social, economic or other reasons. Priority criteria (art. 10) include housing status, income, health status, disability, household size and assets. The law also gives precedence to certain groups, such as refugees from the former Yugoslavia, internally displaced persons and Roma. A point system is used to allocate social housing, although whether it adheres to human rights principles, ensuring allocations to those most in need, is unclear.

34. The main social housing programme was initiated in 2009 by the Government in concert with local governments to address lack of affordability for a large percentage of the population. The Special Rapporteur met with a number of social housing tenants who would have otherwise been homeless, as well as with local authorities. Concerns were raised with respect to the sustainability of social housing, given that a seemingly small portion of its funding is embedded in the central budget and that several components are funded by projects with donors.

35. Currently, social housing is being rolled out as a series of free-standing projects, financed by the State and by international donors. Whether national standards are being complied with or whether demand is being met is unclear. Because each municipality has its own capacity and resources to engage in projects, inconsistencies in quality and services may arise.

36. Some residents of social housing also complained about lack of affordability of housing costs, beyond the cost of utilities. According to the Lawyers Committee for Human Rights (YUCOM) in its written comments on the visit of the Special Rapporteur, they also feel additionally burdened by the recent amendments to the Law on Personal Property Taxes, which requires them to pay an annual property tax just like any other citizen, in addition to the rent, utilities and other housing-related expenses for which they are liable.

37. The Special Rapporteur has noted that the current draft law on housing envisages the cancellation of the Law on Social Housing. She therefore expresses her concern at the lack of clarity with regard to how the new legislation would continue to ensure the availability of social housing to vulnerable groups.

3. Post-disaster reconstruction

38. Heavy rains fell on Serbia in May 2014, affecting around 1.6 million people. Urban and rural areas experienced widespread flooding and landslides, and the destruction of houses and other infrastructure. Some 32,000 people were evacuated from their homes and accommodated by relatives. Approximately 5,000 people were housed in temporary shelters provided by the authorities and the Serbian Red Cross. It is estimated that the total value of the assets destroyed and losses amounted to €1,525 million, equivalent to about 3 per cent of the country's GDP.[3]

39. The reconstruction and rehabilitation of communities affected by disasters pose a tremendous challenge to Governments. The Special Rapporteur recognizes the effective response of the Office for Assistance to and Recovery of Flooded Areas, including in coordination with local government authorities. In Obrenovac, she had the opportunity to hear first-hand the viewpoints of residents and local authorities in the aftermath of the floods. She is mindful that, for some people, relocation meant separation from their communities and moving further away from the town centre. Relocated residents also expressed their concern at the cost of heating in their new homes.

D. Persons in a vulnerable situation

40. Non-discrimination is a fundamental principle of international human rights law and central to the mandate of the Special Rapporteur. In its general comment No. 20, the Committee on Economic, Social and Cultural Rights emphasized that Covenant rights should not be made conditional on, or determined by, inter alia, a person's place of residence, economic and social situation, or nationality, national origin or citizenship (E/C.12/GC/20, paras 25, 34 and 35).

41. In Serbia, the requirement of proof of permanent residence in order to have access to social services addressed. The Special Rapporteur heard testimonies of people who had experienced serious difficulties when, for example, registering permanent residence, seeking access to services or obtaining identity documents. According to information received, the procedure to be followed in order to register an official address can be complex, and has a disproportionate impact on the poor, Roma and internally displaced persons – particularly from Kosovo – whose documents show permanent residence elsewhere, even if they have not resided in those locations for years or do not intend to or are unable to return there. In this case, a permanent residence mechanism not only hinders the enjoyment of a number of human rights, but also, in the Special Rapporteur's view, reinforces social exclusion, stigma and discrimination.[4]

1. Persons living in informal settlements, in particular Roma

42. There are reportedly 583 informal settlements across Serbia, of varying sizes. Many of the Roma, Ashkali and Egyptians living in settlements are originally from Serbia; others are internally displaced persons from Kosovo or the former Yugoslavia. Living conditions in settlements are often inadequate, with virtually no utilities or infrastructure such as electricity, piped drinking water, sewage or regular garbage collection. In some cases, other essential services such as ambulances or public transport are not available. Many are

[3] United Nations country team in Serbia, the European Union and the World Bank, *Serbia Floods 2014*, recovery needs assessment, 2014.

[4] See Praxis and UNHCR, *No residence, no rights*, 2012.

isolated from employment, schools and medical centres. Some settlements that the Special Rapporteur visited were overrun with rodents; in others, children had nowhere to play except on garbage heaps, on broken glass, in complete squalor. These conditions are in violation of the right to adequate housing.

43. The Guidelines for the Improvement and Legalization of Informal Roma Settlements (2007) were designed to assist local governments when addressing informal settlements in their jurisdiction. One common practice, however, is relocation, conducted without any application of clear human rights-based standards or procedures for local self-government. The Special Rapporteur emphasizes that strict conditions apply, including the consideration of all possible alternatives to forced eviction, genuine consultations, and efforts to improve living conditions and to ensure security of tenure, before resorting to relocation.

44. The eviction of Roma was raised with the mandate holder on adequate housing and with other mandates, by means of the communications procedure. Claimants stated that evictions took place without consultation, due process of law or the possibility of alternative accommodation. Moreover, the disproportionate number of evictions of Roma and the authorities' failure to provide basic services or to guarantee legal security of tenure for residents in settlements reflect a stigmatization of and discrimination against Roma.

45. In April 2012, the previous mandate holder issued an urgent appeal with regard to the eviction of approximately 240 households, mainly Roma, from the Belvil settlement in Belgrade. Although they were relocated to four settlements in the outskirts of the city, the living conditions in the temporary resettlement sites (known as "container settlements") failed to meet international standards, the location of the sites was not ideal, no access was given to public services, and residents had not been adequately consulted or provided with information.[5] In its reply to the appeal, the Government pointed out that consultations had indeed been held, families had agreed to an allocation of mobile housing units with the Secretariat for Social Welfare, and that voluntary relocation from the settlement had been conducted without recourse to force.

46. The Special Rapporteur points out that, even at the time of resettlement, the temporary arrangements were not compliant with the obligation to ensure adequate housing. The fact that residents continue to inhabit temporary housing more than three years later renders the situation even more problematic, and cannot be regarded as acceptable under international human rights law.

47. On a positive note, in July 2015, the Special Rapporteur raised concerns at the imminent risk of eviction of a Roma community, most of them internally displaced from Kosovo, from an informal settlement in Grmeč pursuant to an eviction notice issued by the Construction Inspectorate of the Municipality of Zemun (Belgrade).[6] The eviction was suspended by the municipal authorities on the basis of provisions of the International Covenant on Economic, Social and Cultural Rights, and in view of proceedings before the European Court of Human Rights regarding alleged violations of human rights. This is the first time that international human rights standards have been applied directly to an eviction from informal Roma settlements in Serbia.

2. Persons with disabilities

48. The Special Rapporteur underlines the importance of the right to live independently and to be included in the community, in accordance with the provisions of the Convention

[5] See A/HRC/22/67, case SRB 1/2012 and reply of the Government of 12 July 2012.
[6] See A/HRC/31/79, case SRB 2/2015 and reply of the Government of 25 August 2015.

on the Rights of Persons with Disabilities. In this regard, the Law on Social Protection guarantees crucial services such as day care, home-based assistance, shelter and supported living arrangements with the family, as well as support for independent living. It also guarantees financial support for such services as assistance allowance.[7]

49. According to some testimonies, the conditions in welfare housing and in daily care facilities are below acceptable standards; for example, some residents are restrained and confined, and different types of disability are treated indistinctly. Similarly, conditions in centres for persons with intellectual disabilities are often of a questionable quality, unaffordable or insufficient.

50. Few of the social housing units under construction visited by the Special Rapporteur were fully accessible. It appears that often only the units actually housing a disabled tenant are accessible, which suggests that social housing providers are unaware that persons with disabilities may, in fact, wish to interact with and visit persons without disabilities.

51. Recently, the Special Rapporteur was informed that a project, funded by the European Union, on deinstitutionalization, which reportedly resulted in around 150 persons living in communities with support, had been ended without any immediate plans for continuation or follow-up.[8] The Special Rapporteur stresses that, for deinstitutionalization to succeed, it must go hand-in-hand with the provision of adequate services, resources and support in the community for both persons with disabilities and their caregivers. As has been witnessed in many other cases, deinstitutionalization without adequate support can result in homelessness.

3. Homeless persons

52. Only limited attention seems to be paid to the problem of homelessness in Serbia, with little reliable data available. Many interlocutors viewed homelessness exclusively as persons "sleeping rough" or otherwise without any shelter.[9] The Special Rapporteur was, however, informed that, even if such data existed, they would not be indicative of the real extent of the situation, given that the majority of homeless people live in overcrowded conditions, with relatives or friends. She was also informed that groups already subject to discrimination and exclusion, or extreme poverty, such as persons with psychosocial disabilities or LGBT persons, may be at an even greater risk of homelessness. Furthermore, there appear to be legal impediments to the establishment of shelters for homeless persons, and no provision for development by non-State entities. There is no statutory obligation for any public authority to act to address or to prevent homelessness.

4. Persons living in poverty

53. Poverty in Serbia cannot be underestimated. It affects many people, in particular those under 25 years of age, who suffer high rates of unemployment, as well as pensioners, whose benefits rarely suffice to cover essential needs. Failing to address the link between a

---

[7] Center for Independent Living of Persons with Disabilities Serbia and Agency for Cooperation, Education and Development, *Report on Compliance of Legislative and Institutional Framework in Serbia with the UN Convention on the Rights of Persons with Disabilities and Recommendations for Harmonization*, 2014, pp. 76-77.

[8] Open Arms, "Final conference of the OPEN ARMS project held in Belgrade: EU support to people with mental disabilities", 10 December 2015.

[9] Branislava Žarković, Dr. Mina Petović and Milena Timotijević, *Without a house, without a home: Results of the research on homelessness in Serbia*, Housing Center and DISK UK (Belgrade, Publikum, 2012).

small income, unemployment and a chronic lack of housing policies may lead to a housing crisis of far-reaching proportions. The Special Rapporteur regrets the fact that housing and related projects and policies have not turned the spotlight on the increasing housing vulnerability of the poor. While she is aware of a poverty reduction strategy adopted in 2003, she did not receive any evidence to suggest its effectiveness or information on current efforts to address poverty reduction, particularly among young and older persons.

5. Migrants and refugees from outside the Balkans

54. Since the Special Rapporteur's visit, the number of refugees and migrants transiting through Serbia towards northern European countries has surged. According to the United Nations High Commissioner for Refugees, at the end of October 2015, more than 335,000 people had arrived in Serbia.

55. In the Special Rapporteur's view, the dramatic situation requires a response that takes into consideration multiple housing alternatives, from humanitarian shelter and temporary accommodation, close to services and without segregation, to longer-term housing for those who can travel no further. Even if the number of asylum applicants fluctuates regularly, it is crucial to plan ahead and to ensure at a minimum access to emergency shelters for all refugees, regardless of nationality. While the European Commission has allocated millions of Euros in humanitarian aid to Serbia and other Balkan countries, the need for aid is reportedly far greater.[10]

56. The Special Rapporteur is concerned that the refugee crisis is greatly overstretching the current capacities within the relevant institutions, local governments and civil society in Serbia and in bordering countries.

6. Internally displaced persons

57. The Special Rapporteur endorses the findings, conclusions and recommendations of the Special Rapporteur on the human rights of internally displaced persons in October 2013, who focused on the living conditions of all internally displaced persons in Serbia and Kosovo (see A/HRC/26/33/Add.2). She shares the concerns of the Special Rapporteur with regard to the obstacles that many internally displaced persons face to return to their places of origin, the lack of freedom of movement and other barriers to adequate housing for internally displaced persons in Serbia and in northern Kosovo, the internally displaced persons living in collective centres with limited or no access to services, and those living in private accommodation or informal settlements, without personal documentation.

58. The Special Rapporteur is concerned that these housing and living conditions continue. The implementation of the concrete recommendations pertaining to internally displaced persons made by the Special Rapporteur on the human rights of internally displaced persons would make a difference. In this regard, the Special Rapporteur applauds the efforts made to close collective centres – established on a temporary basis in the late 1990s – and to move residents into permanent housing. She was informed that, in January 2002, there were 388 centres in Serbia and Kosovo accommodating 26,863 persons; by June 2015, there were only 10 centres left in Serbia, with 722 persons. This progress is significant, but will only be considered a success once all people living in a collective centre have been adequately housed.

[10] Ibid.

E. Access to justice

59. Access to justice and to legal remedies for violations of the right to housing is essential. Courts are reportedly, however, reluctant to invoke and apply international human rights law in Serbia despite the fact that cases have been brought before courts with such references and arguments.

60. The Special Rapporteur was informed that, for example, contrary to the provisions of article 221 of the Law on General Administrative Procedures stipulating that the lodging of an appeal will automatically lead to a stay of an eviction, this guarantee is often not applied in practice. According to articles 285 and 296 of the Law on Enforcement and Security, persons facing eviction are entitled to preliminary and urgent protection to prevent irreparable damage to their rights; decisions on interim measures are to be issued within 10 days of submission. The Special Rapporteur was informed by the Lawyers Committee for Human Rights in its written comments, however, that these deadlines are seldom respected and that courts are reluctant to issue interim measures in cases of forced eviction, particularly where the dispute involves property rights of an owner.

61. Furthermore, the Special Rapporteur heard troubling testimonies of cases of eviction that were unnecessarily prolonged or subject to repeated review by different and sometimes parallel procedures, without a clear outcome or room for appeal. Some felt worn down by the legal proceedings and anxious that at any moment the standing eviction order would be executed. Since there is no legislation in place to ensure access to free legal aid, persons living in poverty and exclusion are particularly vulnerable.

62. In addition to the courts, Serbia has other mechanisms for the protection of the right to adequate housing: the Protector of Citizens[11] (ombudsman) and the Commissioner for the Protection of Equality.

63. The Protector of Citizens has the authority to promote respect for the rights of citizens, to establish violations by the public administration and to assess the legality of actions by public bodies, companies and institutions to which public powers have been delegated. The office of the Protector of Citizens has submitted reports to treaty monitoring bodies, and uses international human rights law in its work. The Special Rapporteur was informed of the valuable work performed by this institution with regard to discrimination and the right to housing. It appears, however, that many of its recommendations are not implemented in practice. Also, recommendations pertaining to forced evictions are apparently seldom made.[12]

64. The Commissioner for the Protection of Equality was established in 2010 under the Law on the Prohibition of Discrimination. The Commissioner is mandated to address discrimination against individuals and groups by issuing opinions or making recommendations to institutions or individuals, with a defined deadline for non-binding remedial action. The opinions and recommendations of the Commissioner appear to be seldom implemented.

65. The Special Rapporteur commends the creation by the Government, in late 2014, of a multisectoral mechanism, under the Human and Minority Rights Office, to ensure that

[11] Law on the Ombudsman adopted in 2005, amended in 2007. Accredited with 'A' status under Paris Principles in 2015.

[12] Praxis, "Analysis of the Main Obstacles and Problems in Access of Roma to the Right to Adequate Housing", Belgrade, May 2013, p. 43.

treaty body recommendations are implemented, and trusts that it will be monitored and guided to ensure its effectiveness.

III. Kosovo

A. Overview

66. The Kosovo Agency of Statistics estimated that, as at December 2013, the population of Kosovo was 1.8 million, with 61 per cent of inhabitants living in rural areas. An estimated 29 per cent of the population lives on less than €1.72 a day, one of the lowest levels of subsistence on the continent. Extreme poverty disproportionately affects children, older persons and households with persons with disabilities, headed by women or composed of persons belonging to various ethnic groups. Estimates in 2013 point to a rate of unemployment rate of over 20 per cent, with youth unemployment exceeding 55 per cent. Youth unemployment also showed a worrisome gender gap: above 56 per cent for women, as against 40 per cent for men.

67. In the late 1990s, many inhabitants of Kosovo were forced to leave, owing in large part to ethnic tensions and conflict, and its aftermath. In recent years, an increased number of people, particularly the young, have left as a result of the dire economic situation. Remittances are essential revenues for many low-income households in Kosovo and central to paying for direct housing-related costs, including utilities or rent.

B. The right to adequate housing: institutional and legal framework

1. International and constitutional obligations

68. The legal framework in Kosovo reaffirms the obligations of institutions to realize all human rights, including the right to adequate housing. The rights contained in the Universal Declaration of Human Rights, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child, including the right to adequate housing, are made directly applicable in Kosovo by article 22 of the Constitution. Moreover, in accordance with section 1.3 of UNMIK Regulation No. 1999/24 on the Law Applicable in Kosovo, persons undertaking public duties or holding public office are required to observe the provisions of the International Covenant on Economic, Social and Cultural Rights, as well as the international human rights instruments mentioned above.

69. Equality and non-discrimination are enshrined in article 7 of the Constitution. Other related provisions include article 46, on the protection of property; article 51, on health and social protection; and article 32, on legal remedies. Article 53 requires the authorities to interpret the human rights and freedoms guaranteed by law and the Constitution in accordance with the decisions of the European Court of Human Rights.

2. Recent legal and policy frameworks

70. The Special Rapporteur was informed about relevant legislation in the housing sector, such as the 2010 Law on Financing Specific Housing Programmes, aimed at guaranteeing affordability of housing; the 2008 Law on Local Self-Government; and the 2013 Law on Spatial Planning.

71. The Special Rapporteur welcomes the recent adoption of three important pieces of legislation, known as the "human rights package", on the ombudsperson, gender equality and protection from discrimination. Non-discrimination in the context of access to public housing and to other forms of property have been explicitly recognized under article 2 (1.9) of the Law on the Protection from Discrimination. The laws refer to actions and omissions of all State and local institutions, as well as public and private actors.

72. The Law on Financing Specific Housing Programmes requires municipalities to provide adequate and sustainable housing for families with low incomes by creating three rental schemes:

(a) Newly built housing by municipalities, central authorities or donors;

(b) Existing dwellings rented to families benefiting from a housing bonus;

(c) Rental apartments owned by municipalities for specific housing programmes.

73. Under the law, municipalities are required to design a three-year strategy based on a needs assessment, capacities and demand for social housing, and required financial contribution from the central Government. Municipalities are required to report on a yearly basis to the Ministry on their progress in the implementation of their housing programmes.

74. According to information received by the Special Rapporteur, 15 of 38 municipalities have conducted the mandatory needs assessment and drafted three-year housing programmes. Of those 15 programmes, nine have been finalized and approved by their relevant municipal assembly.

75. The Law on Spatial Planning regulates the procedures by which central and local authorities prepare spatial and urban plans to create conditions for balanced economic, social and spatial development and improved living conditions. Given that the administrative instructions derived from the law are still under development, however, all current urban and spatial planning documents continue to be aligned with the law of 2004. With the support of the United Nations Human Settlements Programme (UN-Habitat) and international cooperation, as at November 2014, 12 municipalities had been assisted with their urban and spatial planning through a participatory and gender-equal process.[13] The law also envisages consideration of informal settlements in the development of spatial planning documents;30 municipalities have reportedly incorporated informal settlements in their municipal development plans.

76. During her visit, the Special Rapporteur was informed that a law on social housing under preparation would replace the Law on Financing Specific Housing Programmes. Reportedly, the new law will define a "right to social housing" for those who do not own a housing unit, were left without housing as a consequence of damage resulting from the recent conflict or whose residence does not comply with habitability standards. The new law is aimed at expanding the criteria for eligibility for social housing and addressing the needs of low- and middle-income families.

77. The Special Rapporteur welcomes this important initiative. She was informed that the draft law, finalized by an interministerial working group set up by the Ministry of Environment and Spatial Planning, has been shared for review and comments to all stakeholders and that relevant public debates have been held. In her view, it is essential that the law be aligned with international human rights standards pertaining to housing,

[13] See UN-Habitat Municipal Spatial Planning Support Programme in Kosovo, available from www.unhabitat-kosovo.org.

particularly taking into consideration such issues as security of tenure, cultural adequacy, access to and affordability of services, non-discrimination, prohibition of forced evictions, and access to remedies for any violations of the right to adequate housing. The Special Rapporteur wishes to reassure the authorities in Kosovo that she remains engaged and open to providing technical assistance in the preparation of the law as part of her mandate and in follow-up to her visit.

3. Housing situation

78. The housing situation in Kosovo is complex, with many long-standing disputes, often along ethnic lines. Owing to the short time frame of the visit conducted by the Special Rapporteur to Kosovo, and the limits on the length of the present report, she offers only a brief outline of the situation. To understand the current status of the right to housing in Kosovo, recent events should be considered. Since June 1999, critical factors have included:

(a) The destruction and damage of housing stock during the conflict;

(b) The collapse of the socially owned enterprise system in the former Yugoslavia, which had ensured housing for all workers and their families;

(c) The forced displacement and evacuation of many residents of Kosovo, and subsequent obstacles to property restitution, return or property sale, compounded by ethnic tensions and the occupation of many housing units;

(d) The destruction, loss or removal of property registration, urban planning and other records from municipalities in Kosovo, including cadastres, with negative consequences for, inter alia, internally displaced persons.

79. Reportedly, some 120,000 houses (approximately 25 per cent of the entire housing stock) were damaged in 1999, mostly in rural areas. By 2007, large numbers of new houses had been built in and around urban centres.

80. The validity of cadastral records is a source of ongoing tension in the region. Critical issues of security of tenure due to lack of clarity about rights and procedures also remain a dominant concern for many people. In some cases, lack of clarity has generated discrimination against Roma and internally displaced persons, and given rise to informal and unofficial transactions of property.[14] The Special Rapporteur witnessed geographic divisions drawn along ethnic lines, and fear of crossing certain parts of cities or towns, or even neighbourhoods, depending on whether the person was a Kosovar Serb or Kosovar Albanian.

81. The construction of housing and other buildings without permits in the past 15 years is a matter of concern. The Special Rapporteur was informed that obstacles to securing permits included lack of availability of administrative structures, unclear legislation and failure to grant property registration and construction permits, or complex restitution processes. Furthermore, more than 350,000 buildings in Kosovo have been recorded in the national registry of unpermitted constructions. The Special Rapporteur has taken note of concerns regarding registry shortcomings, and is aware that a second phase for receiving applications for legalization will end in March 2016.

[14] UNMIK, *Housing and property rights in Kosovo: collection of basic texts*, second edition (Priština, UN-Habitat 2000), p. 4.

82. Informal settlements inhabited by Roma, Ashkali and Egyptians prior to the conflict are in a deplorable condition, now deprived of access to roads, sewage, drinking water and electricity. Despite settlement upgrading efforts with international cooperation and aid received, issues and concerns remain, including most recently the growth of new settlements in the outer city areas owing in part to a lack of affordable housing or alternatives in city centres. In addition, what were originally temporary accommodation facilities (such as collective centres for internally displaced persons) have become permanent.

C. Persons in a vulnerable situation

1. Women

83. Article 7 of the Constitution guarantees gender equality as fundamental to the democratic development of society. The Law on Gender Equality was adopted in June 2015 to "guarantee, protect and promote equality between the sexes". Since the 2003 Law on Cadastre does not oblige officials to register joint property, however, property acquired during matrimony is still registered in the husband's name alone, a practice that has a severe impact on women's rights in the event of divorce. To address this situation, the Agency on Gender Equality recently prepared a special directive, approved in December 2015, on registering common assets in the name of both spouses. Accordingly, couples who register their property in the name of both spouses will be exempt from the registration fee and tax payment as of 2016.

84. In 2014, women's property ownership was estimated as being as low as 8 per cent.[15] The link between women's poverty and their lack of land ownership is well documented, and is a major concern for the Special Rapporteur with regard to the situation in Kosovo.

85. According to information received during the visit, the gap separating equality in law and policy with regard to property, inheritance, access to housing or related services and reality for women of all ages remains wide. In 2011, for example, a non-governmental organization reviewed cases of inheritance in 20 municipal courts in five regions (Priština, Prizren, Peja, Gjilan and Mitrovica) and found that, out of almost 5,000 cases monitored in courts, only about 10 per cent of those adjudicated resulted in equal inheritance to women.[16] Reportedly, the property of a deceased father or brother is usually inherited by the sons or the brothers of the deceased. Also, since the Law on Inheritance provides for withdrawal from the procedures by a declaration to the court, the context, social pressure and prevailing culture on women frequently constrain them to waive their rights to inheritance in favour of their male relatives. Reportedly, the Ministry of Justice has recently commenced preparation of a property strategy, which will include the prevention of such practices against women and girls.

86. The cumulative impact of lack of access to property rights, low income, high unemployment and social pressure is acute for women facing domestic violence. The Special Rapporteur was recently informed that there is a new strategy and plan of action against domestic violence was being prepared and discussed. Reportedly, one of the recommendations would be on allocating a certain number of social housing units in municipalities to women and children who have survived domestic violence.

---

[15] Ulf Färnsveden, Ariana Qosaj-Mustafa and Nicole Farnsworth, "Country Gender Profile: an analysis of gender differences at all levels in Kosovo", ORGUT Consulting, April 2014, p. 11.

[16] Lawyers' Association NORMA. *Research and Monitoring the Law on Gender Equality*, 2011, p. 22.

2. Internally displaced persons

87. Internally displaced persons in Kosovo include Serbs, Roma, Ashkali and Egyptians, and others. Many internally displaced persons in Kosovo experience discrimination when attempting to secure personal documentation and with regard to employment opportunities, access to public services and housing conditions. Under international law, refugees and internally displaced persons have the right to return to their homes, irrespective of their ethnicity. The lack of a sustainable solution for many displaced persons in Kosovo therefore remains a major challenge.

88. The housing conditions of Roma, Ashkali and Egyptian communities are particularly inadequate. Currently, there are approximately 100 informal minority settlements with overcrowded conditions, inadequate access to water, electricity, waste collection, public transport and roads. Many people have been displaced or are unable to rebuild or return to their homes owing to lack of documentation to prove citizenship or their legal tenure or title, and with scant land allocations by municipalities. Within these communities, the levels of employment and education are extremely low, and are compounded by discrimination based on the place of residence, obstructing access of these groups to housing-related services and social housing.

89. The Special Rapporteur concurs with the findings of the Special Rapporteur on the human rights of internally displaced persons (see A/HRC/26/33/Add.2), that Roma, Ashkali and Egyptians returnees face two main obstacles in securing the right to housing: lack of sufficient allocation of land by municipalities; and lack of recognition of occupancy rights in informal settlements prior to the conflict. In fact, although many Roma, Ashkali and Egyptians owned their own homes and land, their occupancy had never been registered, and they continue to face insurmountable obstacles in securing formal ownership of their property.

D. Access to justice

90. Despite the important efforts made by authorities and the international community to date, complex issues of land, housing and property restitution and return for those who wish to do so remain a source of conflict and concern, and a top priority for all actors with whom the Special Rapporteur met.

91. Established in 2006, the Kosovo Property Agency is mandated to receive, register and – through the Kosovo Property Claims Commission – resolve ownership claims over private immovable property, and to right of use over those properties when the owner is unable to exercise those claims, resulting from the armed conflict of 1998-1999. The decisions made by the Claims Commission may be appealed only by the Supreme Court of Kosovo. All of the claims (almost 43,000) have been adjudicated by the Commission of First Instance. Some 1,300 appeals remain. The Special Rapporteur was informed that, when established, the mandate of the Agency was strictly limited to the resolution of conflict-related claims for "ownership" and "property use rights", but did not provide for restitution as a remedy of compensation for loss of property. Such a narrow ambit precluded the broader facilitation of returns, and housing reconstruction or compensation, including for instances when unregistered or informal settlements were demolished.[17]

[17] See UNMIK regulation 2006/50 on resolution of claims relating to private immovable property, including agricultural and commercial property.

92. The Special Rapporteur takes note of the report of the Secretary-General on UNMIK (S/2015/303), in which the Secretary-General recognized that unresolved property rights remained a key impeding factor to progress in voluntary returns and intercommunity relations in Kosovo. He added that, according to a report of the Organization for Security and Cooperation in Europe on illegal reoccupation cases in Kosovo, more than 95 per cent of the 326 cases referred to the prosecution offices by the Kosovo Property Agency between 2008 and 2013 involved properties owned by Kosovo Serbs and illegally reoccupied by Kosovo Albanians following evictions. The OSCE report also outlined serious shortcomings in the response of the authorities to the cases, including by the Kosovo Property Agency, the offices of public prosecutors and the courts.

IV. Conclusions and recommendations

93. **In both Serbia and Kosovo, the enjoyment of the right to adequate housing has been deeply affected by a combination of changes in the political and economic system alongside the devastating consequences of conflict, displacement and ethnic tensions, all within a short period of time. To secure the right to adequate housing for all residents, particularly the most vulnerable, the palpable tensions will have to be addressed, while the market-based economy will have to be responsive to the needs of the population. Housing will also have to be understood as a human right rather than a simple commodity, and as a pillar of long-term peace and sustainable development.**

94. **Although the Special Rapporteur recognizes the efforts made to develop legislation, programmes and strategies in Serbia and Kosovo in the housing sector, they do not always appear to be human rights-based. Moreover, the multiplicity of short-term projects developed in parallel suggests a fragmented approach without a long-term vision that addresses the needs of all residents. The gap between laws and their effective implementation is also a cause for concern.**

95. **While significant steps have been taken to address discrimination against minorities in law and programmes, de facto discrimination continues unabated. The deplorable situation of those living in informal settlements, without access to such essential services as electricity and water, contradicts the spirit and content of international human rights standards. This situation should be rectified without delay. Insecure tenure, the forced eviction of those in informal settlements or without formal rental contracts, and lack of access to public services for those without a registered residence should also be addressed as an immediate priority.**

96. **The Special Rapporteur stresses that some population groups remain particularly marginalized and invisible in housing policy and legislation. She was struck by the lack of concern for people living in poverty or on a low income, persons with disabilities, and women and children facing domestic violence. She was deeply concerned at the living conditions in some of the communities that she visited. The Special Rapporteur was alarmed that homelessness is neither recognized nor addressed. Long-term policies that address the needs of all these invisible groups are essential.**

97. **In some situations, the Special Rapporteur was concerned at the role played by multiple donors. While she acknowledges the importance of certain projects targeting all internally displaced persons, refugees and in particular Roma, Ashkali and Egyptians, she is troubled by the apparent lack of effort to establish long-term policies and national institutions to address housing, as a fundamental human right for all, with dedicated national and local budgets.**

98. **Lastly, the Special Rapporteur wishes to draw attention to the lack of timely and effective mechanisms to challenge violations of the right to housing and to access remedies. Lack of access to justice cripples the exercise of this right.**

99. **In the light of the above conclusions, the Special Rapporteur makes the recommendations below.**

A. Recommendations addressed to the Government of Serbia

1. Legislation and policies

100. **The Special Rapporteur recommends that the Government of Serbia:**

(a) **Conduct, in concert with local governments, an assessment of national housing needs, taking into account the specific elements of the right to housing; the assessment should comprehensively map the situation of all populations groups, with disaggregated data, and be systematically updated;**

(b) **Adopt a national law on housing that is the result of genuine consultations and the participation of all stakeholders. The new law should be compliant with international human rights law with regard to housing and non-discrimination. Without precluding other issues of relevance, the Special Rapporteur recommends that the law:**

(i) **Ensure the prohibition of forced evictions and set out provisions to ensure full compliance with international human rights law in this area;**

(ii) **Ensure that discrimination is not allowed in law or in practice, in particular against the most vulnerable groups in the population;**

(iii) **Ensure security of tenure for the urban poor, including those who live in informal settlements;**

(iv) **Require full consideration of housing alternatives in situ and prior to resettlement or relocation, in close consultation with and the participation of residents of informal settlements;**

(v) **Establish viable procedures for regularization and improved living conditions, with access to adequate services for persons living in informal settlements;**

(vi) **Put greater emphasis on the development of social housing, and ensure its availability for those in need;**

(vii) **Incorporate mechanisms permitting access to remedies and justice;**

(viii) **Ensure adequate financial and human resources for monitoring and implementing the law;**

(ix) **Address and eliminate homelessness, using also benchmarks and timelines;**

(x) **Address the needs and situation of invisible groups;**

(c) **Abolish container settlements and ensure availability of social housing for those who require it; if the existing housing stock is insufficient, develop short- and medium-term strategies to address the shortage;**

(d) Amend administrative mechanisms that hinder the exercise of the right to adequate housing, and related human rights, such as the registration of permanent residence;

(e) Take positive steps and measures at the local and national levels to address the need for maintenance and upgrading of housing stock, including by addressing sustainability, safety and energy efficiency;

(f) Regulate and subsidize housing-related costs, including utilities and taxes for low-income individuals and households, in order to address affordability levels and to ensure that no one is made homeless by arrears;

(g) Undertake a comprehensive review of all municipal regulations that may have an impact on housing in order to ensure that they are in line with international human rights standards on the right to housing and regional human rights standards on social housing.

2. Vulnerable groups

101. **The Special Rapporteur also recommends that the Government of Serbia:**

(a) Eliminate and address de facto housing discrimination against Roma, Ashkali and Egyptians, and all internally displaced persons, including by ordering the immediate cessation of evictions in informal settlements by local authorities and the abandonment of any other measures leading to segregation and substandard housing conditions; for example, mobile housing units should be replaced by housing options that are in compliance with international human rights standards;

(b) Facilitate the process of deinstitutionalization of persons with disabilities, at a pace that ensures that no person deinstitutionalized is rendered homeless, inadequately housed or without support, and has adequate care to live independently;

(c) Intensify and accelerate efforts to support local integration and access to adequate housing of the tens of thousands of people from Kosovo, unless or until their return becomes possible;

(d) Ensure an effective, human rights-based response to the arrival of migrants and refugees, including by providing access to emergency shelters or reception centres and related services of a quality that will ensure respect for human dignity, regardless of nationality or status. All measures to receive people fleeing conflict and violence should be taken on the basis of international human rights law and international humanitarian law.

3. Access to justice and legal remedies

102. **The Special Rapporteur further recommends that the Government of Serbia:**

(a) Enhance the capacity of the judiciary to ensure the application of international human rights instruments with regard to the right to adequate housing and non-discrimination in this context;

(b) Ensure that the Protector of Citizens and the Commissioner for the Protection of Equality strengthen their work to protect the right to adequate housing without discrimination on any ground, making use of the various tools at their disposal and giving priority to those most vulnerable and marginalized;

(c) Consider ratifying the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights with a view to improve the protection of the right to adequate housing;

(d) Enhance the capacity of the multisectoral mechanism to disseminate and ensure implementation of the recommendations of treaty body monitoring mechanisms, including by the judiciary; and consider expanding its mandate to the recommendations made by the special procedures of the Human Rights Council. The role of civil society participation in the mechanism is essential should therefore also be given priority.

4. International community and private actors

103. **The Special Rapporteur recommends that the Government of Serbia:**

(a) Develop regulations to ensure that the contributions of donors take fully into account national needs assessments, national priorities and a long-term housing strategy, and comply with international human rights standards and obligations;

(b) Ensure regulation of and oversight over private landlords, social housing providers and developers to ensure that their policies and programmes comply with international human rights standards.

B. Recommendations addressed to the authorities in Kosovo

104. **The Special Rapporteur recommends that the authorities in Kosovo:**

(a) Consider incorporating the International Covenant on Economic, Social and Cultural Rights into the list of international human rights instruments included in the Constitution;

(b) Carry out a comprehensive housing needs assessment, bearing in mind population groups that may be invisible, such as women, young people and the elderly, and persons living in poverty. Other population groups, in particular Roma, Ashkhali and Egyptians, and all internally displaced persons, especially Kosovo Serbs, and their specific vulnerabilities should also be considered in the assessment;

(c) Take steps to ensure that the new law on social housing complies with international human rights standards with regard to the right to adequate housing and non-discrimination; incorporates specific measures to ensure protection of women's right to housing, as well as access to adequate housing for low-income people, such as young or elderly persons; offers guidance on the regularization of informal settlements and provides security of tenure to inhabitants, as well as access to all services; and envisages the creation of a mechanism facilitating access to justice and remedies;

(d) Encourage and support municipalities that have not adopted their three-year housing strategies, as required by law and in accordance with housing needs assessments, to do so; all municipalities should prioritize the development of affordable housing in available land in their urban plans, zoning and spatial arrangements, in particular over other uses of land, such as for commercial purposes;

(e) Take all necessary measures to ensure full compliance with the provisions in the human rights package at all levels of government, in order to eliminate de facto discrimination experienced by women and girls in Kosovo; and

ensure that specific policies are geared towards guaranteeing the right to adequate housing, without discrimination on any grounds;

(f) Coordinate with the Government of Serbia and relevant authorities to ensure that all pre-conflict cadastral records are transferred back to the appropriate authorities in Kosovo.

105. **The international community in Kosovo, in particular donors, should ensure that the resources allocated for housing-related programmes and projects are based on a needs assessment inclusive of neglected populations, that such programmes are designed and implemented in full consultation with and ensuring participation of the beneficiaries, that location of projects does not lead to segregated or isolated communities, and that long-term, durable housing solutions comply with international human rights law and standards.**